

**176.63 History:** 1935 c. 187; Stats. 1935 s. 176.63.

**176.65 History:** 1935 c. 187; Stats. 1935 s. 176.65; 1949 c. 17 s. 23; 1969 c. 276.

**176.66 History:** 1935 c. 187; Stats. 1935 s. 176.66.

**176.67 History:** 1935 c. 187; Stats. 1935 s. 176.67.

**176.70 History:** Spl. S. 1933 c. 5; Spl. S. 1933 c. 14 s. 1; 1935 c. 187, 217; Stats. 1935 s. 176.70; 1937 c. 346; 1949 c. 17 s. 23; 1969 c. 276 s. 590 (2), (3); 1969 c. 392 s. 87 (9).

When 2 or more are associated in the business of selling liquor for future delivery, the firm must obtain a permit under 176.70 (1) and its representatives must also obtain permits. 39 Atty. Gen. 353.

See note to 66.054, on class "B" retailers' licenses, citing 40 Atty. Gen. 114.

**176.705 History:** 1935 c. 217, 420; Stats. 1935 s. 176.705.

**176.71 History:** 1935 c. 187; Stats. 1935 s. 176.71; 1949 c. 17 s. 23; 1969 c. 276 s. 585 (7).

**176.72 History:** 1937 c. 174; Stats. 1937 s. 176.72; 1947 c. 362 s. 2.

**176.90 History:** 1945 c. 374; Stats. 1945 s. 176.90; 1947 c. 362 s. 2; 1949 c. 17 s. 21, 23; 1951 c. 261 s. 10; 1955 c. 10; 1967 c. 138; 1969 c. 252; 1969 c. 276 ss. 500, 585 (7).

Ch. 374, Laws 1945, commonly known as the "Thomson Law," providing for a special proceeding, on petition of the state, for the revocation of the beer or liquor license of any person who knowingly permits any slot machine, etc., to be set up, etc., on the licensed premises, does not conflict with any provisions of the constitution. State v. Coubal, 248 W 247, 21 NW (2d) 381. See also 34 Atty. Gen. 87.

Under 176.90 (9) the district attorney has no duty to report to the governor the negative circumstance that he has not received reports of the presence of specified gambling devices within his county during the preceding quarter year. In the absence of such report, the governor must presume the district attorney has done his duty, unless proof is received by the governor of the presence of such gambling devices in said county, and of the district attorney's knowledge thereof. In the latter circumstance the governor may remove the district attorney on his own complaint. 36 Atty. Gen. 307.

An electrical coin-operated machine which asks the player 5 questions and gives him a period of time in which to select which of 6 proposed answers to each question is correct is lawful if used solely for amusement; but if prizes are paid for high scores it violates 176.90, 348.07 (1) and 348.09, Stats. 1947. 37 Atty. Gen. 126.

A pinball machine which does not contain any automatic pay-off is a gambling device under 176.90 when its recorded scores are used to determine the winner of a prize given by the proprietor. 39 Atty. Gen. 435.

A baseball tally card is a device designed for a form of gambling similar to that for

which a number jar is used and is within the terms of 176.90. 39 Atty. Gen. 546.

**176.91 History:** 1969 c. 252; Stats. 1969 s. 176.91.

## CHAPTER 177.

### Unclaimed Property.

**Editor's Note:** For foreign decisions construing the "Uniform Disposition of Unclaimed Property Act", see Uniform Laws, Annotated.

**177.01 History:** 1969 c. 404; Stats. 1969 s. 177.01.

**177.02 History:** 1969 c. 404; Stats. 1969 s. 177.02.

**Editor's Note:** The following cases had to do with prior legislation on unclaimed funds in banks: State v. Marshall & Ilsley Bank, 234 W 375, 291 NW 361; Marine Nat. Ex. Bank v. State, 248 W 410, 22 NW (2d) 156; State v. First Wisconsin Nat. Bank, 250 W 107, 26 NW (2d) 161; and State v. First Wisconsin Trust Co. 266 W 610, 64 NW (2d) 210. See also: 25 Atty. Gen. 303, 25 Atty. Gen. 420, 26 Atty. Gen. 64, and 26 Atty. Gen. 390.

See note to sec. 4, art. XI, on general banking law, citing Marine Nat. Ex. Bank v. State, 248 W 410, 22 NW (2d) 156.

See note to sec. 1, art. I, on inherent rights, citing State v. First Wisconsin Trust Co. 266 W 610, 64 NW (2d) 210.

**177.03 History:** 1969 c. 404; Stats. 1969 s. 177.03.

**177.04 History:** 1969 c. 404; Stats. 1969 s. 177.04.

**177.05 History:** 1969 c. 404; Stats. 1969 s. 177.05.

**177.06 History:** 1969 c. 404; Stats. 1969 s. 177.06.

**177.07 History:** 1969 c. 404; Stats. 1969 s. 177.07.

**177.08 History:** 1969 c. 404; Stats. 1969 s. 177.08.

**177.09 History:** 1969 c. 404; Stats. 1969 s. 177.09.

**177.10 History:** 1969 c. 404; Stats. 1969 s. 177.10.

**177.11 History:** 1969 c. 404; Stats. 1969 s. 177.11.

**177.12 History:** 1969 c. 404; Stats. 1969 s. 177.12.

**177.13 History:** 1969 c. 404; Stats. 1969 s. 177.13.

**177.14 History:** 1969 c. 404; Stats. 1969 s. 177.14.

**177.15 History:** 1969 c. 404; Stats. 1969 s. 177.15.

**177.16 History:** 1969 c. 404; Stats. 1969 s. 177.16.

177.17 **History:** 1969 c. 404; Stats. 1969 s. 177.17.

177.18 **History:** 1969 c. 404; Stats. 1969 s. 177.18.

177.19 **History:** 1969 c. 404; Stats. 1969 s. 177.19.

177.20 **History:** 1969 c. 404; Stats. 1969 s. 177.20.

177.21 **History:** 1969 c. 404; Stats. 1969 s. 177.21.

177.22 **History:** 1969 c. 404; Stats. 1969 s. 177.22.

177.23 **History:** 1969 c. 404; Stats. 1969 s. 177.23.

177.24 **History:** 1969 c. 404; Stats. 1969 s. 177.24.

177.25 **History:** 1969 c. 404; Stats. 1969 s. 177.25.

177.26 **History:** 1969 c. 404; Stats. 1969 s. 177.26.

177.27 **History:** 1969 c. 404; Stats. 1969 s. 177.27.

177.28 **History:** 1969 c. 404; Stats. 1969 s. 177.28.

177.29 **History:** 1969 c. 404; Stats. 1969 s. 177.29.

177.30 **History:** 1969 c. 404; Stats. 1969 s. 177.30.

177.35 **History:** 1969 c. 404; Stats. 1969 s. 177.35.

177.36 **History:** 1969 c. 404; Stats. 1969 s. 177.36.

177.37 **History:** 1969 c. 404; Stats. 1969 s. 177.37.

## CHAPTER 178.

### Uniform Partnership Act.

**Editor's Note:** For foreign decisions construing the "Uniform Partnership Act," consult Uniform Laws, Annotated.

178.01 **History:** 1915 c. 358; Stats. 1915 s. 1724m-1; 1923 c. 291 s. 3; Stats. 1923 s. 123.01; 1967 c. 92 s. 18; Stats. 1967 s. 178.01.

178.02 **History:** 1915 c. 358; Stats. 1915 s. 1724m-2; 1923 c. 291 s. 3; Stats. 1923 s. 123.02; 1967 c. 92 s. 18; Stats. 1967 s. 178.02.

"If, on applying the act to the varying rules found in different states, obscurity in language should appear, the meaning of doubtful parts should, if possible, be gathered from its general purposes \* \* \*. The general purpose of the act must be gathered from its language. When this is found, and is plain and unmistakable, particular words may be ignored, if out of harmony with the general purpose, unless they were used by way of proviso or exception, or indicate a positive intent inconsistent with the general spirit." In re Safady Brothers, 228 F 538, 540.

178.03 **History:** 1915 c. 358; Stats. 1915 s. 1724m-3; 1923 c. 291 s. 3; Stats. 1923 s. 123.03; 1967 c. 92 s. 18; Stats. 1967 s. 178.03.

In the law of partnership the element of contract to form a partnership is fundamental and the usual test is whether the parties intended in a given transaction to become partners. A mere joint adventure does not necessarily constitute a partnership affair. *Sander v. Newman*, 174 W 321, 181 NW 822.

Persons doing business under a title that was apparently a corporate name, pursuant to a trust agreement relieving them from personal liability, but without being incorporated in fact, and not holding themselves out as operating under that agreement, were individually liable as partners. *Hayes M. T. W. Co. v. Wolff*, 175 W 501, 185 NW 512.

There is a distinction between a partnership and a joint adventure. *Hayton v. Appleton M. Co.* 179 W 597, 192 NW 168.

At common law, husband and wife could not be partners because of her lack of capacity to enter into a contract, but under 6.015, Stats. 1921, a married woman may enter into a contract of partnership with her husband. *Sparks v. Kuss*, 195 W 378, 216 NW 929, 218 NW 208.

A group of farmers joining in the construction of a power line to obtain electric current did not constitute a partnership and they were not liable individually on a note executed by one acting as treasurer for the group. *Smith v. Starkey*, 203 W 56, 233 NW 576.

A partnership or joint adventure does not usually exist between an owner of a farm and a tenant, who has undertaken to work the farm on shares and who is an independent operator compensating the owner for the use of the farm in shares of the crop instead of money rentals. *Schleiker v. Krier*, 218 W 376, 261 NW 413.

What the parties to an agreement call themselves is not conclusive on the question of the existence of a partnership. *Montello Granite Co. v. Industrial Comm.* 227 W 170, 278 NW 391.

Under 123.01 et seq., a partnership is an association of 2 or more persons to carry on "as co-owners" a business for profit and all partners have "equal rights in the management" and conduct of the partnership business. That a wife does not share in the management and control of the business and contributes no vital additional service, where the husband purports in some way to have given her a partnership interest, should be taken into consideration in determining whether the partnership is real within the meaning of the state revenue laws. *Thomas v. Dept. of Taxation*, 250 W 8, 26 NW (2d) 310.

In order to constitute an element of partnership, the "profits" in which a partner is to share must be real profits, not wages. *Kuenzi v. Radloff*, 253 W 575, 34 NW (2d) 798.

Plaintiff brought an action to recover a share of "partnership" profits, and his counsel agreed that partnership was the only jury issue and did not request the submission of any questions and agreed to the sole question submitted by the trial court, asking whether the parties entered into a partnership agreement; the question was answered "no". The trial court cannot be criticized for having sub-